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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT SEATTLE

11                  SOLOMON WILLIAMS, et al.,

12                  Plaintiffs,

13                  v.

14                  THE BOEING COMPANY, et al.,

15                  Defendants.

16                  No. C98-761P

17                  ORDER DENYING  
18                  PLAINTIFFS' MOTION IN  
19                  LIMINE TO EXCLUDE  
20                  TESTIMONY BY DR. WARD  
21                  AS TO COHORT ANALYSIS

22         This matter comes before the Court on Plaintiffs' motion in limine to exclude testimony  
23 by Dr. Ward as to cohort analysis. (Dkt. No. 917). The Court DENIES Plaintiffs' motion.

24         Plaintiffs argue that Dr. Ward's cohort analysis should be excluded because it does not  
25 measure discrete acts of promotion, but instead compares salary growth for similarly-situated  
26 African-Americans and white employees. They also argue that Dr. Ward's report does not  
constitute "good science" under the standards of Fed. R. Evid. 702.

27         As the Court has previously noted, Plaintiffs' claims for discrimination in promotions are  
28 distinct from claims for discrimination in compensation. However, this distinction does not  
29 preclude Defendants from arguing that a method for assessing whether promotion discrimination  
30 has occurred would be to examine how the earnings of similarly-situated African-Americans and

1 whites have progressed over time. Dr. Ward's analysis is also sufficient to satisfy the  
2 admissibility requirements of Fed. R. Evid. 702. At trial, Plaintiffs will be free to challenge Dr.  
3 Ward's analysis and to argue that his analysis does not measure discrete acts of promotion.

4 The Court also denies Plaintiffs' alternative request to preclude Dr. Ward from testifying  
5 about a modified cohort study that he presented in his rebuttal report. Dr. Ward may testify  
6 about his modified study to the extent that Plaintiffs open the door to such testimony by  
7 challenging his initial study for including merit pay increases.

8 The clerk is directed to send copies of this order to all counsel of record.

9 Dated: December 2, 2005.

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s/Marsha J. Pechman

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Marsha J. Pechman

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United States District Judge

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